

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

June 14, 1994

CHAND WIJE,)
Complainant,)
)
v.) 8 U.S.C. 1324b Proceeding
) OCAHO Case No. 94B00046
BARTON SPRINGS/EDWARDS)
AQUIFER C.D.,)
Respondent.)
_____)

ORDER

On June 9, 1994, the undersigned received a letter dated June 3, 1994, and signed by Alton B. Laws, Jr., identified as Director of Precinct 3 of the Barton Springs/Edwards Aquifer Conservation District (respondent), and Donald R. Turner, identified as Director of Precinct 2 of respondent agency, advising:

It has come to our attention that some documents received by our District office appear to have been altered prior to being provided to the U.S. Department of Justice.

Please advise us as to your interest and requirements.

That single-page correspondence contained no letterhead and there was no indication that either Laws or Turner was acting in an official capacity for respondent. Nor could it be discerned whether copies of the letter had been distributed.

The pertinent procedural regulation regarding the service and filing of documents provides that after a complaint has been filed with this office, as here, all subsequent pleadings are to be delivered or mailed for filing to the Administrative Law Judge assigned to the case, accompanied by a certification indicating service to all parties of record. 28 C.F.R. § 68.6(a).

Furthermore, the procedural regulation governing ex parte communications, 28 C.F.R. section 68.36(a), provides that, except for employees of the Executive Office for Immigration Review, the Administrative Law Judge shall not consult any person, or party, on any fact in issue unless upon notice and opportunity for all parties to participate.

The June 3, 1994, letter of Messrs. Laws and Turner, in which both of whom identified themselves as directors of respondent control district, has not been served in accordance with the procedural regulations, and thus constitutes an ex parte communication on respondent's part.

Accordingly, copies of that letter are being attached to this order and are being served upon the unrepresented complainant, as well as respondent's counsel of record. It is further ordered that the respondent agency, i.e. its agents, officers, and employees refrain from any further attempts to engage in ex parte communications with this office.

In the event that either party attempts to do so, appropriate sanctions will be ordered, in accordance with the procedural regulations. See 28 C.F.R. § 68.36(b).

JOSEPH E. MCGUIRE
Administrative Law Judge